

1982 WL 189127 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 6, 1982

*1 Mr. W.E. Jenkinson, III
Jenkinson & Jenkinson
120 W. Main Street
Kingstree, South Carolina 29556

Dear Mr. Jenkinson:

In a letter to this office you referenced the situation involving former Magistrate Alex Chatman who resigned from the position of magistrate during the summer of 1981, but continued to receive a salary as a magistrate until his successor's appointment, which was effective December 10, 1981. You indicate that a question has arisen as to whether he should reimburse the county for the compensation received during the period between his resignation and the effective date of his successor's appointment.

In a letter from Mr. McLeod to Governor Riley dated June 30, 1980 concerning former Williamsburg County Magistrate R. D. Cantley, Jr., a copy of which you forwarded with your letter, it was determined that a magistrate, who has resigned and whose resignation has been accepted, must, in accordance with the decision of the South Carolina Supreme Court in [Rogers v. Coleman](#), 245 S.C. 32 (1964), remain in office until his successor is appointed and has qualified. The letter further stated that the magistrate

. . . while serving in such circumstances . . . (is) . . . acting in a de facto capacity, with full entitlement to all the emoluments and authority vested in a magistrate.

Therefore, in accordance with the above, former Magistrate Chatman was entitled to receive his magisterial salary during the period following his resignation referenced above.

If there are any further questions, please advise.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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